

# **EXHIBIT 302**

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SECURE, ACCESSIBLE & FAIR ELECTIONS COMMISSION  
STATE OF GEORGIA

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The above-entitled SAFE Commission meeting was held before Patrick Stephens, Certified Court Reporter, in and for the State of Georgia, commencing at 10:00 a.m. on this, the 12th day of December, 2018, at Secretary of State's Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia 31217.

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TRANSCRIPT LEGEND

- (Interjection of thought for clarification)  
-- (Interruption of thought)  
... (Trailing off or did not complete thought)  
(ph) (Phonetically)  
[sic] (In its original form)

1 commission, Madam Secretary. My name is Ryan Germany. I  
2 am the general counsel of the Secretary of State's office.

3 I want to give you guys a very brief update on litigation  
4 -- not all litigation that we are facing in the Secretary  
5 of State's office, but some that I think is relevant to  
6 y'all's charge here.

7 It's meant to be very brief and high level. There are  
8 some plaintiffs in the lawsuits I'm about to talk about  
9 here, so I don't want to -- you know, I'll say I'm not  
10 meaning to characterize anything a certain way so, if I do  
11 so, I apologize. It's meant to be very -- just a general  
12 kind of FYI to the commission.

13 The point I want to get across is there is ongoing  
14 litigation about our current system and -- and, in my view,  
15 that litigation will continue until we move to a new  
16 system. And, frankly, if we don't move to a new system  
17 prior to the next election, we'll probably -- we'll  
18 probably see even -- even more litigation about it.  
19 So time is of the essence as y'all consider your  
20 recommendations.

21 So the questions in front of you are complicated, and  
22 the point I want to get across is one that I think,  
23 unfortunately, makes it even more complicated. We have a  
24 complicated issue that we need to solve and we need to  
25 solve it quickly.

1           We need to get a -- make a recommendation, get it  
2           through the legislature and implement a system with all  
3           deliberate speed. And, if we are not able to do that, I  
4           think the state will see legal consequences in terms of  
5           continuing current litigation but probably additional  
6           litigation going forward.

7           The two claims I want -- the two cases I wanted to  
8           give you a brief overview on are, essentially, about the  
9           election machines. One of them is called Curling v. Kemp  
10          -- Curling v. Crittenden now that'll soon be Curling v.  
11          Raffensperger, but it's a constitutional challenge to the  
12          use of the DRE machines, and the plaintiffs allege that the  
13          lack of a paper trial is a violation of the 14th amendment.

14          That case is in front of Judge Totenberg in the  
15          Northern District of Georgia. Currently, it is on appeal  
16          in the 11th Circuit and oral argument in that case is set  
17          for January 28th.

18          Judge Totenberg issued a opinion prior to it going to  
19          the 11th Circuit, indicating that she found a lot of the  
20          plaintiff's claims credible. So that means, if the case  
21          goes back to Judge Totenberg, you know, she's given us a  
22          pretty clear indication of how -- of how she intends to  
23          rule.

24          The next case is the case that Mr. Favorito mentioned  
25          briefly. There's an election contest over the lieutenant

1 governor's race. And, again, that's -- that's called  
2 Coalition for Good Governance v. Crittenden. It's in  
3 Fulton County Superior Court, and that's an election  
4 challenge talking about the number of under votes in the  
5 lieutenant governor's race. So that's the other one  
6 involving -- involving our machines.

7 One other thing I want to speak to very briefly is  
8 there's litigation -- there's the machine cases, the DRE  
9 cases. One thing that we are not currently dealing with in  
10 Georgia but we have seen in other states is there are  
11 lawsuits about accessibility under the -- the Americans  
12 with Disability Act. I know both Ohio and Maryland are  
13 seeing lawsuits to that -- in that.

14 The gist of those cases is that the voter experience  
15 for disabled voters should match as close as possible to  
16 voter experience for nondisabled voters. Currently, we  
17 have a system where those do match very well. In some  
18 states, they do not.

19 So I think that's something to keep in mind as y'all  
20 consider your recommendations or if we move to something  
21 where those get further part, the experience for  
22 nondisabled and disabled voters in terms of voting, then we  
23 probably will see some of those lawsuits as well.

24 And, again, I know we're -- that's -- that's all I  
25 had. It was meant to be very high level, so I don't want

1 to get into sort of the specifics of litigation right now,  
2 but I am happy to take any questions if members of the  
3 commission have any.

4 REPRESENTATIVE FLEMING: Thank you, Ryan. Questions  
5 from members of the commission? Ms. Bailey.

6 MS. BAILEY: Thank you, Mr. Chairman. Lynn Bailey,  
7 Richmond County. You were talking about the timeframe for  
8 implementation of a new system. Are we still looking at a  
9 -- having something in place prior to or at least at the  
10 time of the presidential primary for 2020 or is that a  
11 decision that is yet still to be made?

12 REPRESENTATIVE FLEMING: Well, I think -- I think it  
13 is a decision yet to be made because all of that depends on  
14 the legislature acting this session, and what we put into  
15 the law and working with the governor and the Secretary of  
16 State.

17 However, most of the discussions I think I have heard  
18 have said that it would be great if we could possibly even  
19 in the municipal elections of '19 -- maybe statewide, maybe  
20 not -- have some test runs with new equipment at that point  
21 and then that gets you closer to being ready, potentially,  
22 for the presidential-preference primaries.

23 However, the best laid plans of mice and men -- I have  
24 said before, you know, you -- you try to set a goal there,  
25 and that is an ambitious schedule and -- and the people at